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SCHOOL OF LAW

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Dr. Phyllis M. Wise, Chancellor
University of Illinois at Urbana-Champaign
Swanlund Administration Building
601 John Street
Champaign, IL 61820

Dear Dr. Wise:

Last June several University of Illinois Urbana-Champaign faculty invited me to your campus as part of *The Cultures of Law in Global Contexts Initiative* and the Gender and Women's Studies Department's *Queer Studies Reading Group*. I agreed to come in late September and give several public lectures and hold intensive sessions with graduate students in the humanities, law, and women's/gender/queer studies. For this I was generously offered a modest honorarium plus the costs of travel and accommodation. I enthusiastically looked forward to working closely with the UIUC's outstanding interdisciplinary group of faculty and students who are thinking in new and challenging ways about notions of globalization, nationalism, personhood and justice across a range of disciplinary locations. These interdisciplinary initiatives promise to destabilize comfortable notions of belonging, reparation, identity, and dispossession. I was excited to learn more about their work and participate, if only for a few days, in a community of scholars who were committed to thinking hard, if not uncomfortably, about the ways in which law is, or is not, up to the task of addressing the most critical forms of injustice, and how law itself can become an instrument of injustice in critical global contexts.

Regretfully, I write to inform you that on account of the decision to rescind an accepted offer of employment to Professor Steven Salaita, I must now cancel my visit to the UIUC campus in late September.

I have long held the view that the use of boycotts as a tactic to protest an unjust practice by a state, business or academic institution may be appropriate in the right context, such as the current crisis at the UIUC, but that those who pledge to honor a boycott cannot rest their political commitments exclusively on a promise not to do something. Rather they should also pledge to affirmatively engage the injustice that generated the call for the boycott. For this reason, rather than merely boycotting your institution, I plan to travel to Urbana-Champaign in mid September at my own expense to participate in a forum (located off campus) with members of the UIUC community in which we will explore the manner in which the termination of Professor Salaita's employment at UIUC threatened a robust principle of academic freedom.¹

Of equal, if not greater, importance, at this forum I plan to explore with UIUC faculty the complex questions of belonging, dispossession, and possibilities for legitimate uses of state and non-state violence that may underlie Professor Salaita's tweets on the Israeli/Palestinian conflict.

We would be well served to relate them to a rich academic literature that has aimed to give meaning to this particular struggle. UIUC's world-class faculty in history, comparative literature, post-colonial studies, Jewish and Arab studies, ethnography, and human rights, are more than equipped to unpack Professor Salaita's brief comments on social media (most would admit that 140 characters do not allow for nuance, rigor or careful analysis), taking them as a starting point instead of an end of a discussion about complex questions of belonging, dispossession and identity. Rather than appealing to norms of civility and safety that risk inoculating the UIUC community from challenging and uncomfortable inquiry, an approach that appreciates the norms and values of an academic institution would substitute rigorous interdisciplinary and scholarly analysis of the possible meanings of a provocative comment such as "Zionists: transforming 'anti-Semitism' from something horrible into something honorable since 1948."² Should we take from such a statement a cynical, if not offensive, apology for anti-semitism or does it suggest a deeper critique of the unintended and tragic consequences of certain extreme forms of political Zionism? Perhaps both? This conversation may include thoughtful consideration of the perils and merits of academics' use of social media. Instead of being afraid of ideas that may be disturbing or provocative, or prejudging their meaning and declaring them off-limits, scholars aim to unpack them and interrogate their possible implications. I suspect that this conversation could generate disagreement, but I am certain it would galvanize a rich scholarly inquiry that has been lost by banishing Professor Salaita and his ideas from the UIUC campus.

As for my decision to decline the departmental invitation to speak at the UIUC, allow me to explain why I have chosen to take this course. The statement you and your Board of Trustees issued on August 22nd, affirming the decision to terminate Professor Salaita's employment, as well as emails related to this matter that were released to the public last week, make clear that this catastrophe is not really about Professor Salaita and the UIUC's interest in preserving a civility norm on campus. Rather, it is better and more accurately understood as the most recent iteration of a well-funded, well-organized and aggressive strategy to censor academic scholarship, research or discussion that is critical of Israel or Israeli state policy. So too it aims to censor scholarship, research or discussion that expresses sympathy for the rights of Palestinians. With the assistance of consultants and other branding experts, the strategy has been to frame comments critical of Israel as an affront to civility in the university context. To those of us who have defended academic freedom on this issue in recent years, your statement on the Salaita case echoed, in profoundly disappointing ways, the framing that has been advanced by political operatives who seek to capture the parameters of discussion of Israel/Palestine in an academic context.³ We at Columbia University are no strangers to this pressure, as we have experienced, and weathered, enormous outside pressure placed on our administration to deny tenure to scholars whose academic work criticizes Israel or political Zionism. I have had my own lectures taped and then critiqued by members of the David Project, have been instructed by my dean's office that I cannot give a talk in which the word "Palestine" appears in the title because "there is no such place as 'Palestine,'" and my former dean refused to accept a grant I received to fund scholarly work designed to create space in academic contexts for critical discussions of Israel/Palestine.

The strategy behind the campaign opposing Professor Salaita's appointment at the UIUC seeks to reframe any discomfort that might arise around the competing claims to belonging, dispossession and identity in Israel/Palestine as a fundamental problem of intolerance, disrespect or abuse. This tactic insinuates as a baseline a particular stance or orthodoxy with respect to the highly contested claims to truth or right on this issue that can then be intolerated, disrespected, or abused. The emails disclosed from your office from university donors, alumni/ae, and others clearly document that the UIUC has been targeted by a particular kind of pro-Israel pressure group hoping to purge the professorate and the campus of parties who they deem to have taken positions (whether in their academic or personal capacities) hostile to an uncritically felicitous conception of Israel. That the UIUC administration would surrender to that pressure, and then defend the decision to do so, in the name of a civility norm on campus, is both disingenuous and disheartening.

Finally, you and your Board offer the defense that the UIUC was justified in terminating Professor Salaita's employment on the ground that "our campuses must be a safe harbor" where students will not be confronted by ideas that upset them or make them uncomfortable, and that the UIUC "will not tolerate ... personal and disrespectful words or actions that demean and abuse either viewpoints themselves or those who express them." Presumably this new standard of "academic integrity" would apply not only to Professor Salaita but to other faculty and visiting lecturers such as myself. If so, then the positions I have advanced in my scholarship and in my work outside the academy would disqualify me from giving a lecture to your students as an invited visitor, not to mention an appointment at the University of Illinois College of Law. My recent article *Dating the State: The Moral Hazards of Winning Gay Rights* includes a sustained critique of the state of Israel's effort to rebrand itself as a gay-haven in order to distract attention from its abuse of the human rights of Palestinians,⁴ and my public withdrawal⁵ from a gay rights conference in Philadelphia partially funded by the state of Israel would most certainly create discomfort for some members of the UIUC community who are inclined to applaud Israel for its "pro-gay" laws and policies. To be frank, most of my work was written with the aim of upsetting settled notions of identity, justice and rights – something for which I have received both praise and criticism from others in writing and in person at public lectures. I regard this give and take, often impassioned if not ferocious, as a central part of the academic project where we test new, uncomfortable ideas for the novel forms of knowledge they may illuminate.

In addition to myself, Professor Salaita, and many other scholars holding appointments at peer academic institutions whose scholarship and other advocacy contain remarks that would run afoul of the UIUC's new civility policy, Israeli Prime Minister Benjamin Netanyahu would surely be unwelcome at the University of Illinois as an invited lecturer on the basis of his recent uncivil comments on social media, swearing vengeance against the "human animals" who captured and killed three Yeshiva students in the West Bank last June.⁶

My most sincere regrets that on account of the unfolding catastrophe surrounding the termination of Professor Salaita's employment I will be unable to accept your faculty's invitation to visit the Champaign-Urbana campus to give a lecture on *The Cultures of Law in Global Contexts*. However, I do hope that we can meet in mid September, either in a public or private context, when I come to central Illinois to participate in an off-campus session with a community of scholars who do not fear, nor are intolerant of, provocative, challenging, and even uncomfortable ideas.

Sincerely,

A handwritten signature in black ink, reading "Katherine M. Franke". The signature is fluid and cursive, with the first name "Katherine" written in a stylized, somewhat abbreviated manner, and the last name "Franke" written more fully.

Katherine M. Franke

¹ A good summary of my legal analysis of this catastrophe can be found in the letter that I authored on behalf of professors of constitutional law, available here: <https://www.dropbox.com/s/gxfbptf2t0d17vw/Faculty%20Letter%20to%20U%20of%20I.pdf>.

² A number of scholars have already taken this tweet as a provocation to explore its possible meanings. See e.g. Corey Robin, *What Exactly Did Steven Salaita Mean By That Tweet?* ("Israel and many of its

defenders claim that Israel is coterminous with Jewishness — indeed, sometimes, that Israel exhausts the definition of Jewishness; Israel has come to be associated, in the eyes of many, with colonization, racism, occupation, population transfer/ethnic cleansing; and movements against colonization, racism, occupation, and the like are considered to be honorable because those things are thought to be, like anti-Semitism itself, among the great sins of the 20th century. Because of these three developments, Israel has perversely made anti-Semitism into something honorable: i.e., a discourse that is not about animus toward Jews but rather about opposition to colonization, population transfer, occupation, and the like.”) <http://coreyrobin.com/2014/08/08/what-exactly-did-steven-salaita-mean-by-that-tweet/>.

³ See for example, The David Project, *A Burning Campus? Rethinking Israel Advocacy at America's Universities and Colleges* (2012), available at: <http://www.davidproject.org/wp-content/uploads/2012524-ABurningCampus-RethinkingIsraelAdvocacyAmericasUniversitiesColleges.pdf>; and Gary Tobin, Aryeh Weinberg, and Jenna Ferer, *The Uncivil University: Politics and Propaganda in American Education* (2005).

⁴ “Dating the State: The Moral Hazards of Winning Gay Rights,” 44 *Columbia Human Rights Law Review* 1 (2012), <https://web.law.columbia.edu/sites/default/files/microsites/gender-sexuality/Dating%20the%20State.pdf>.

⁵ Katherine Franke Explains Why She is Boycotting the Equality Forum, <https://www.youtube.com/watch?v=0jd5YwZJB3U>.

⁶ Alexander Marquardt, “Israeli PM Calls Killers of Three Israeli Teens 'Human Animals,’” *ABC News*, available at: <http://abcnews.go.com/International/israeli-pm-calls-killers-israeli-teens-human-animals/story?id=24367041>.